

Opening Statement of Chairman Bob Ney
House Administration Committee Mark-Up
H.R. 1316 – the “527 Fairness Act of 2005”
June 8, 2005

The Committee is now in order for the purpose of consideration of H.R. 1316—the “527 Fairness Act of 2005.”

The Bipartisan Campaign Reform Act (“BCRA”) threw our federal campaign system out of balance when it passed three years ago. Despite the claims of its proponents, BCRA did not ban soft money but merely diverted its flow. Power and influence were shifted to unaccountable, ideologically driven outside groups, and our political parties were weakened as a result.

Additionally, the First Amendment rights of individuals and associations were trampled upon as a result of BCRA’s many onerous restrictions and harsh criminal penalties. And yet, for reasons I will never understand, the supporters of BCRA crow about how all this represents progress. Confronted by the failures of the law they supported, BCRA supporters now propose even more government clampdowns on political speech. For them, “reform” has only one meaning – more regulation.

I believe there is a better approach.

Today, I will be offering an amendment in the nature of a substitute to H.R. 1316—an amendment that seeks to restore some of the balance that was lost when BCRA was enacted. This amendment removes some of the regulatory shackles that hinder the ability of party committees, PACs, and individuals to compete on a level playing field with 527s. Furthermore, it is an amendment that recognizes the crucial role our political parties play as mediating institutions within our political system, and understands that the health of our democracy is inseparably linked to the health of our political parties.

The amendment I am introducing retains all of the provisions from H.R. 1316, as introduced, which was co-authored by Congressmen Mike Pence and Albert Wynn, both of whom testified before this Committee about their bill last month. At that hearing, Congressman Pence described the purpose of his bill, stating that, “Instead of pushing down the 527s as some have proposed, our bill aims to lift up the other players by injecting more freedom into the campaign system.” And Congressman Wynn explained that “[t]he bill would allow national political parties to more effectively raise hard money campaign contributions for their candidates and to promote their party’s agenda.”

The Pence-Wynn bill makes the following changes to the current campaign finance system. First, it lifts the aggregate election-cycle contribution limit. This change will not only end the unproductive competition among political party committees and

PACs for a donor's dollars but will encourage more giving to entities subject to disclosure requirements and contribution limits.

Next, the bill removes the limit on expenditures coordinated between party committees and candidates. The current limit is based on the untenable notion that candidates are in danger of being corrupted by their own parties. Eliminating this limit removes an unfortunate wedge that's been driven between parties and their own candidates.

One of BCRA's numerous adverse effects was federalizing many activities traditionally carried out at the state and local level. The so-called reformers often bemoan the fact that many voters are estranged from the political process but then impose laws that hamstring the very groups whose mission it is to bring them in. The Pence-Wynn aims to correct this by allowing state and local parties to use funds permitted under relevant state law to engage in voter registration activities and to print and distribute sample ballots.

The bill also lifts restrictions that prevent many tax-exempt organizations from engaging in electioneering communications on equal terms with 527 groups and eliminates the "prior approval" requirement for trade associations.

In addition to these provisions, the amendment I am introducing today includes language that furthers the underlying objectives of H.R. 1316. The amendment raises the contribution limits for PACs and indexes them for inflation. The current PAC limits have been eroded by 30 years of inflation, and so a modest increase has been long overdue. The amendment also helps cash-strapped state parties by indexing the limits on contributions to state party committees.

The amendment will, furthermore, permit unlimited transfers between leadership PACs and national party committees. This provision remedies an unnecessary disparity in the law that allows a candidate's authorized campaign committee to make unlimited transfers to a national party committee but prevents a candidate's leadership PAC from doing the same.

The amendment protects small political organizations from burdensome FEC regulations by raising the committee registration threshold to \$10,000.

BCRA places unfair and unreasonable restrictions on the ability of federal officeholders to fully participate in elections in their home states and in the communities they represent. The amendment we are considering today dismantles some of these barriers by allowing federal officeholders to endorse state and local candidates without such endorsements being considered coordinated contributions that must be paid for with federal hard dollars. Federal candidates will also be able to declare their positions on state ballot initiatives and endorse other federal candidates. This amendment also clarifies the original intent of a BCRA provision that permits federal officeholders and candidates to speak at and fully participate in fundraisers for state and local parties.

The amendment strengthens the foreign money ban by prohibiting foreign nationals from making contributions or expenditures to 527 organizations. Neither the Federal Election Campaign Act nor the Internal Revenue Code specifically bars foreign nationals from making contributions to 527 groups. My amendment corrects that omission.

The amendment also promotes disclosure of the activities of 527 groups by requiring that such entities report according to the same schedule and under the same terms and conditions as federal political committees.

Finally, the amendment protects the ability of our citizens to participate in the national political dialogue using Internet web sites and blogs without the fear of being subject to burdensome regulation under the federal campaign finance laws. The Internet has been a revolutionary tool for engaging our citizenry in the democratic process. Its expanding use should be fostered and encouraged, not hindered by heavy-handed regulatory restrictions. The Internet provision contained in my amendment enjoys wide bipartisan support and is identical to language introduced by Senate Democrat Leader Harry Reid.

I believe the amendment I am introducing today will significantly improve our nation's campaign finance system by making it fairer and more balanced, and I ask my colleagues here on the Committee to support it. I again want to thank the sponsors of H.R. 1316—Congressmen Pence and Wynn—for their efforts on this matter. They are men of deep integrity and keen understanding about how our campaign finance system operates. It has been a pleasure working with them on this legislation.

I also want to express my gratitude to my colleagues on the Committee for their hard work and useful suggestions for improving this legislation. Mr. Mica was the author of the 527 disclosure provision, and I greatly appreciate his efforts to shed more sunlight on the activities of 527 groups. Ms. Miller was the driving force behind strengthening the ban on foreign contributions to 527 groups, and she along with Mr. Ehlers and Mr. Reynolds also offered very useful proposals for enhancing the amendment's endorsement provision. Mr. Doolittle has also been very helpful throughout this entire process. In addition, I want to thank Congressman Hensarling for his efforts to keep political activity on the Internet free and open. The formulation of this amendment has been a collaborative effort, and the final product has been greatly enhanced as result of the individuals just mentioned.